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4 **UNITED STATES DISTRICT COURT**
5 **DISTRICT OF NEVADA**
6

7 UNITED STATES OF AMERICA,

8 Plaintiff,

9 vs.

10 JAMES SCOTT ALVA,

11 Defendant.
12

2:14-cr-00023-RCJ-NJK

ORDER

13 Pursuant to a stipulation of the parties, the Court entered an order to continue the trial of
14 this matter to January 16, 2018. (Order, ECF No. 262.) The Government now moves the Court to
15 reconsider that order. (ECF No. 263.)

16 The pertinent facts are as follows. On November 7, 2017, the parties filed a stipulation
17 for extension of time, as well as a proposed order granting that stipulation. (ECF No. 257.)
18 Because the stipulation provided that Defendant had not consented to the proposed continuance,
19 the Court contacted defense counsel and requested that Defendant sign the stipulation prior to the
20 proposed order being signed by the Court. On November 8, 2017, defense counsel filed a revised
21 stipulation and order, which Defendant had signed. However, Defendant had also made several
22 handwritten interlineations, altering the content of the original stipulation to some extent.
23 Finding Defendant had consented to the continuance, the Court granted the stipulation. (Order,
24 ECF No. 262.)

1 The Government now objects on the ground that two of Defendant's interlineations
2 suggest that the parties have violated Defendant's rights under the Speedy Trial Act:

3 However, on paragraphs three (3) and six (6) of the proposed order, Defendant
4 added the handwritten words "violation by all parties," above the term "Speedy
5 Trial Act." The Government did not review this additional handwritten language
6 prior to the proposed order being filed and objects to its inclusion in the order as
7 signed by this Court. There has been no agreement by the parties that there has
been a "violation by all parties" of the Speedy Trial Act or that granting this
continuance would result in a violation of the Speedy Trial Act. Therefore, the
Government respectfully requests this Court to reconsider its Order and strike the
objectionable handwritten additions.

8 (Mot. Recon. 2-3, ECF No. 263 (citations omitted).)

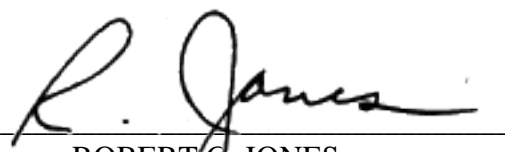
9 The Court grants the Government's motion, and strikes from its order, ECF No. 262, both
10 interlineations of the phrase "violation by all parties." The remainder the order stands.

11 Notwithstanding the stricken language, the Court finds that Defendant has consented to the trial
12 continuance. In addition, regardless of Defendant's consent, the Court finds, under 18 U.S.C.
13 3161(h)(7)(B)(i) and (iv), that the ends of justice served by the granting of the continuance
14 outweigh the best interests of the public and the Defendant in a speedy trial. Were trial to
15 proceed as scheduled on November 13, 2017, the Government would be deprived of an essential
16 witness, and defense counsel would not be afforded the reasonable time necessary for effective
17 preparation, taking into account the exercise of due diligence.

18 CONCLUSION

19 Therefore, IT IS HEREBY ORDERED that the motion to reconsider (ECF No. 263) is
20 GRANTED consistent with the analysis above.

21 IT IS SO ORDERED. This 9th day of November, 2017.

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ROBERT C. JONES
United States District Judge